

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:23-CV-00365-KDB-DCK**

RICHARD C. FOY,

Plaintiff,

v.

**ROMAN CATHOLIC DIOCESE
OF CHARLOTTE, NORTH
CAROLINA,**

Defendant.

ORDER

In this action, *pro se* Plaintiff Richard Foy, a parishioner of St. Mark Catholic Church in Huntersville, North Carolina, seeks to hold the Roman Catholic Diocese of Charlotte, North Carolina (the “Diocese”) liable for its decision to deny Plaintiff a “lector” position publicly reading from the Scriptures during prayer services. Specifically, Mr. Foy contends that the Diocese committed defamation under state law and a hate crime under the Hate Crime Act of 2009, 18 U.S.C. § 249. The Diocese has now moved to dismiss all of Plaintiff’s claims. (Doc. No. 5). The Court has carefully reviewed the parties’ briefs in support and in opposition to the motion and considered this motion under the more lenient standards applicable to *pro se* litigants. For the reasons briefly discussed here and more fully stated in the Diocese’s memoranda in support of its motion, (Doc. Nos. 6, 11), the Court concludes that the motion should be granted.

The Complaint must be dismissed for several reasons. First, this Court lacks jurisdiction under Federal Rule of Civil Procedure 12(b)(1) because Plaintiff’s claims under the Federal criminal Hate Crime Act may not be asserted in a civil action and Plaintiff thus has failed to assert a federal question under 28 U.S.C. § 1331 (and the parties are not diverse, which precludes

diversity jurisdiction under 28 U.S.C. § 1332). Additionally, the Court cannot adjudicate this case because Plaintiff is attempting to hold the Diocese liable for its decisions regarding whom it places in ministerial roles. Accordingly, adjudicating Plaintiff's claims would impermissibly entangle the Court in questions of religious doctrine and practice in violation of the First Amendment of the U.S. Constitution. Finally, even applying the more liberal standard applied to *pro se* complaints, Plaintiff fails to plead a viable cause of action for defamation because he has not plausibly alleged either a false statement or an unprivileged publication of such a statement to a third party. Therefore, his Complaint must be dismissed under Rule 12(b)(6).

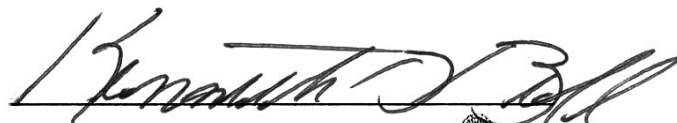
ORDER

NOW THEREFORE IT IS ORDERED THAT:

1. Defendant's Motion to Dismiss (Doc. No. 5) is **GRANTED**; and
2. The Clerk is directed to close this matter in accordance with this Order.

SO ORDERED ADJUDGED AND DECREED.

Signed: November 15, 2023



Kenneth D. Bell
United States District Judge

